

28 February 2011

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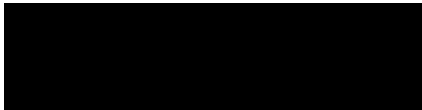
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Dear Sir

Submission - Proposed Variations to Western Power's Access Arrangement for 2009/10 to 2011/12: Application and Queuing Policy

Please find attached Pacific Hydro's submission to the above consultation.

Yours sincerely



Lane Crockett  
General Manager, Australia

[ENCLOSURE](#)

# *Proposed Variations to Western Power's Access Arrangement for 2009/10 to 2011/12: Application and Queuing Policy*

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*28 February 2011*

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## Executive Summary

Pacific Hydro welcomes the opportunity to provide a response to the invitation for public submissions regarding the proposed variations to Western Power's Access Arrangements for 2009/10 to 2011/12: Application and Queuing Policy.

The proposed amendments to the Application and Queuing Policy (AQP) will result in the removal of the first-come first-served queue concept. Pacific Hydro considers that removing this principal of the existing Queuing Policy introduces unacceptable sovereign risk to existing Queue participants. The proposal put forward by Western Power does not address our concerns that investment decisions made on the basis of our queue position (and our right of access to transmission capacity) is at risk.

The removal of the Queue mechanism will create uncertainty for future developments as participants scramble for available firm capacity when it is released. This "capacity rush" will not resolve the resource issues claimed by Western Power as being the key driver to the removal of the Queue.

Further industry consultation on these arrangements will enable better understanding of the significance of an applicant's queue position in relation to the expenditure on project development. Only once these impacts are fully understood can appropriate actions be taken. However, any retrospective treatment of applications is not acceptable and sends an unintended message to developers that investment in Western Australia is subject to significant sovereign risk. Any transition away from the existing arrangements must take into consideration investments that have already been made.

The ability of a wind project to secure financing and to secure supply contracts for turbines requires a level of connection certainty. This certainty has to date been in the form of the orderly connection approach to the firm capacity that underlies the value of the queue connection arrangements. Investment certainty and the attractiveness of Western Australia for generation development will be diminished if this proposal is accepted.

In summary Pacific Hydro considers that the proposed variations put current investment at risk, represent increased regulatory uncertainty and will increase regulatory costs and delay future investment.

Please contact our Market Operations Manager, Mr John Vendel on 03 8621 6308 if you wish to discuss any elements of this submission.

## 4.1.2 Advantages of Varying the Access Arrangement

*Submissions are invited from interested parties on whether the advantages of varying Western Power's access arrangement, specifically the applications and queuing policy, during the current (AA2) access arrangement period (2009/10 to 2011/12) outweigh any disadvantages; for example in relation to decreased regulatory certainty and increased regulatory cost and delay.*

Pacific Hydro considers the disadvantages outweigh the advantages.

- Disadvantages
  - o Removes 1<sup>st</sup> come 1<sup>st</sup> served principle – which disadvantages applicants who are at or near the top of the queue from obtaining connection capacity.
  - o Removes orderly connection to SWIS. Western Power is required to manage multiple relationships in a simultaneous and equitable manner.
  - o Creates a “capacity rush” creating increased sensitivities around the communication of transmission augmentation programs and approvals.
  - o Unconstrained access capacity will dissolve as connecting parties scramble for connection leaving applications being reasonable progressed (and incurring significant fees and system study costs) without capacity at the point of executing connection arrangements.
  - o Existing applicants, many who have spent considerable time and money with Western Power exploring connection options and load flow and dynamic network studies will need to reapply under the new applications and queuing policy. This will create additional costs and uncertainty for existing applicants on the treatment of their projects.
- Advantages
  - o Removes barriers to applicants seeking generation connection (however Bypass rules were designed to accommodate this)
  - o Allows WP to progress multiple parties (subject to Western Power resources)

Accordingly Pacific Hydro considers that the proposed variation puts current and future investment at risk and will delay projects.

## 4.1.3 Requirements Specific to the Applications and Queuing Policy

*Submissions are invited from interested parties on whether Western Power's variation proposal, and hence its proposed revised applications and queuing policy, complies with the requirements of the Access Code; and in particular section 5.7 of the Access Code, which requires an applications and queuing policy to:*

- (a) *accommodate the interests of the service provider and of users and applicants, to the extent reasonably practicable; and* Western Power's proposal to create up to 9 “competing application” groups will create up to 9 “queues” without any mechanism to manage the coordination and equitable allocation of Western Power's resources to progress the connection enquires. Western Power will negotiate with multiple parties rather than deal with a connection application that is, by virtue of its queue position, considered well progressed.

- (b) *be sufficiently detailed to enable users and applicants to understand in advance how the applications and queuing policy will operate; and*

It is unclear from the proposal how WP will determine and resource its “competing application” groups. The trial assessment found that there were 9 competing groups (from the 46 applications), how each of the applications was assessed within these groups is unclear. As the groups will be treated collectively the inclusion of applicants in groups that are progressing will be of interest to those group's who are not progressing. The outcome of this “grouping” arrangement will create uncertainty for investors' seeking to progress their projects and potentially create a desire for applicants to insist on allocation to specific groups.

- (c) *set out a reasonable timeline for the commencement, progressing and finalisation of access contract negotiations between the service provider and an applicant, and oblige the service provider and applicants to use reasonable endeavours to adhere to the timeline; and*

Pacific Hydro's opinion is that these arrangements are not equitable.

It appears Western Power has set timelines for Applicants (generally 30 days) to respond to Western Power's offers however there are no timelines for the provision of information from Western Power. Western Power's obligation's (Section 3.12 Application & Queuing Policy) are to process applications “expeditiously and diligently”. Pacific Hydro considers that Western Power should include a more formal mechanism for an

“extension of time” in relation to an applicant’s response. This would be consistent to Western Power acting as a “reasonable and prudent” person but within structured boundaries that the Applicant can manage.

- (d) *oblige the service provider, subject to any reasonable confidentiality requirements, to provide to an applicant all commercial and technical information reasonably requested by the applicant to enable the applicant to apply for, and engage in effective negotiation with the service provider regarding, the terms for an access contract for a covered service; and*

In our experience there are existing confidentiality issues, emanating from legacy arrangements, relating to the provision of technical information to Applicants resulting in difficulties in progressing grid load flow and dynamic network studies independently of Western Power. The confidentiality issues create further resource drains on Western Power to progress these studies or requires the applicants appoint specialist electrical engineering firms to complete studies and ensure confidentiality issues (in relation to data received from Western Power) are managed to an acceptable level.

Once external load flow and dynamic network studies have been completed there is no mechanism that exists which provides accreditation of the specialist electrical engineering firms to enable Western Power to accept these studies. Applicants must then fund additional studies completed by Western Power to validate the work completed.

- (e) *set out the procedure for determining the priority that an applicant has, as against another applicant, to obtain access to covered services, where the applicants’ access applications are competing applications; and*

As discussed above, there is no transparency in how Western Power implements Competing Application Groups or a process by which applicants can choose to enter a specific Completing Application Group. How Western Power then allocates resources to attend to these groups is also not known.

- (f) *to the extent that contestable consumers are connected at exit points on the covered network, contain provisions dealing with the transfer of capacity associated with a contestable consumer which, to the extent that it is applicable, are consistent with and facilitate the operation of any customer transfer code; and*  
Not commented on.

- (g) *establish arrangements to enable a user who is:*

i. *a ‘supplier of last resort’ as defined in section 67 of the Electricity Industry Act 2004 to comply with its obligations under Part 5 of the Act; and*

Not commented on.

ii. *a ‘default supplier’ under regulations made in respect of section 59 of the Electricity Industry Act 2004 to comply with its obligations under section 59 of the Act and the regulations; and*

Not commented on.

- (h) *facilitate the operation of Part 9 of the Electricity Industry Act 2004, any enactment under Part 9 of the Act and the ‘market rules’ as defined in section 121(1) of the Act; and*

Not commented on.

- (i) *if applicable, contain provisions setting out how access applications (or other requests for access to the covered network) lodged before the start of the relevant access arrangement period are to be dealt with.*

Western Power provides no discussion on the transition of existing applicants who lodged applications before the start of the relevant access arrangement. Pacific Hydro considers there is a risk that applicants that are currently well progressed in the queue but awaiting augmentation will be effectively “bypassed” using the new queue arrangements. Currently these matters are addressed using bypass arrangements (including existing provision A2.55 of the Electricity Networks Access Code 2004).

## 4.2 Overview of Western Power's Proposed Variations

### 4.2.1 Defined Objective

*Submissions are invited from interested parties as to what extent Western Power's proposed objectives are consistent with the Access Code requirements for an Applications and Queuing Policy and the Access Code objective.*

Pacific Hydro considers Western Power's proposals are not consistent with the Code objective to promote the economically efficient investment and operation of networks and services of networks, in WA in order to promote Competition in markets upstream and downstream of the networks.

### 4.2.2 Amendments to Definitions

*Submissions are invited from interested parties on whether the proposed changes to definitions are appropriate.*

### 4.2.3 Enquiry and Application Commencement

*Submissions are invited from interested parties on whether the proposed enquiry process is appropriate, in particular:*

- whether it should be compulsory for applicants to make an "enquiry" prior to lodging an "application";*

Pacific Hydro supports a more formalised connection process. The enquiry process described by Western Power's proposal, including the compulsory lodgement of an Enquiry prior to lodging an Application is reasonable. The obligations and timelines in the enquiry process should however be embodied in the proposed amendments to the Applications & Queuing Policy. The availability of relevant line flow information related to particular network elements and timeliness of the provision of this information for the completion of network studies should also be described in the amendments. This would ensure issues concerning the sensitivity of line flow information/generation data is transparent to all stake holders and existing confidentiality clauses in legacy contracts resolved.

Given the increased risks introduced by the proposal to abolish the existing bypass arrangements, Pacific Hydro believes Western Power should provide details regarding the progress of other competing applicants to the market. This information can be used by applicants to assess the risks associated with further expenditure on the development of prospective sites where existing capacity is limited and there is a risk of that capacity being taken by competing projects.

- whether the proposed process for Western Power to specify information requirements for applicants, provide information to applicants and assessment of whether an application is complete is sufficiently transparent and equitable; and*

Pacific Hydro's considers the existing confidentiality arrangements surrounding legacy contracts will create difficulty in Western Power's ability to provide transparent and equitable information to connecting parties.

Western Power's proposal has acknowledged that applicants and 3<sup>rd</sup> parties have the capability to perform network studies and are able to relieve the drain on Western Power's resources. However, how Western Power will assess the 3<sup>rd</sup> party or Applicant studies is less clear. Pacific Hydro suggests Western Power include an accreditation list to enable applicants to choose 3<sup>rd</sup> parties who's completion of network studies will be acceptable to Western Power.

- whether the proposed formalised enquiry process is likely to improve the applications and queuing process in terms of timing, information availability and decision-making processes.*

A more formalised queuing process will assist applicants in progressing information requirements and timing. Pacific Hydro notes that connection applications often require applicants to establish connection arrangements and generation/network technology at an early stage in the connection process. This is often at odds with the ability of the applicant to proceed with approvals for tendering of technical arrangements.

Pacific Hydro considers the risks associated with establishing an electrical connection to a green field generation site are somewhat mitigated by the unconstrained access connection offer prior to commercial obligations being locked in with suppliers of generating equipment. The timing of the connection offer with other development requirements is challenging and requires flexibility to ensure projects have some level of connection certainty. Substantial costs including site studies, landholder agreements, wind monitoring, planning and environmental assessments and approvals are incurred throughout the development cycle. As the development cost increases so does the need for increased certainty of connection – any failure in obtaining this certainty will jeopardise the progress of the development.

Western Power's assumption that the applicant will be in a position to determine the primary plant and connection configuration before they can proceed with the connection enquiry is not practical and creates a barrier for new entrants. For future wind energy projects Pacific Hydro requires a reasonable level of certainty that the connection arrangements will be available before making a commitment to a specific manufacturer's turbine. This ensures the turbines, one of the major cost components of wind projects, can be competitively sourced. The timing of the tender process is aligned to the progression of the development cycle which includes the connection certainty. Forcing applicants to make these choices up front is inefficient and unreasonable.

Notwithstanding the challenges of timing the various aspects of the development process, Pacific Hydro supports the concept that a Preliminary Access Offer should be accepted by applicants within 30 days of issue by Western Power (with an additional further 30 days of negotiation). However circumstances of the applicants and their progress on resolving development issues should be seen as an indication of commitment to connect and not result in the removal of these applicants from the connection process.

## 4.2.4 Competing Applications

*Submissions are invited from interested parties on whether the proposed changes in relation to competing applications will:*

- *assist in addressing market efficiency issues; and*
- *be sufficiently transparent and workable in practice.*

The issues of transparency and workability have not been adequately addressed by Western Power. Pacific Hydro is particularly concerned how existing applicants will transition to these new arrangements and what assurances can be provided for access to capacity when augmentation works are completed.

In Pacific Hydro's opinion the market efficiency issue raised by Western Power, the ability to progress multiple applicants simultaneously, including the use of identical unit charging and technical requirements, has not been adequately detailed.

Each applicant will have unique issues and require specific connection solutions. Applying a broad solution to all applicants will not necessarily result in an efficient outcome. Projects that progress their development activities to the point of commitment only to find that the capacity has been used by other projects is equally inefficient.

## 4.2.5 Deletion of Queue Concept

*Submissions are invited from interested parties on whether the "first-come first-served" queuing concept should be replaced by the proposed applications and queuing policy, outlining any advantages and disadvantages of doing so.*



Pacific Hydro considers the “first-come first-served” queuing concept together with a revised market design and transparent and formalised connection processes should ultimately replace the existing “first-come first-served” queue concept.

However, in order to transition to this “open access” arrangement the existing applicant's position in the current queue (and associated arrangements) should be grandfathered as these arrangements have supported development activity and investment in projects.

The existing design of the SWIS includes unconstrained access. Under an “open access” arrangement a “capacity rush” is likely to occur when augmentation on the network is announced. Announcements of these developments will require careful attention by Western Power.

The unconstrained access design is commensurate with an orderly access arrangement as currently exists. Moving away from this without considering the value of the unconstrained access design is not reasonable and creates significant investment risk for current applicants.

## 4.2.6 Applicant Specific Solutions

*Submissions are invited from interested parties as to whether the proposed changes in relation to applicant specific solutions are appropriate.*

Pacific Hydro supports specific network solutions adapted for connection arrangements. We consider these arrangements provide a balance between the needs of applicants to have access and the risks Western Power face from obligations under an unconstrained access capacity model. Pacific Hydro encourages the ERA to explore this relationship further as the elements of the existing unconstrained access market design is reviewed against the modified access application arrangements.

## 4.2.7 Fees and Costs

*Submissions are invited from interested parties as to whether the proposed fees and costs are reasonable.*

Pacific Hydro agrees that Application and Enquiry Fees should be non-refundable. However Application and Enquiry Fees should not be re-charged if applicants are unable to proceed when Western Power makes a preliminary offer. Under these circumstance additional study costs may apply but applicants should not have to restart the connection process.

A system study proposal from Western Power should form part of a competitive process where applicants can seek alternative parties for these studies. A reasonable timeframe should be allowed for information necessary for the studies to be provided by Western Power.

Where Competing Applications result in a preliminary offer processing fee being charged to applicants, clear timelines and cost estimates should be provided. Where regulatory uncertainty exists, the expenditure on further network augmentation studies should be deferred until the approval of the regulatory test and the new facilities investment test. Refunds of the preliminary offer processing fee should apply if the proposal does not proceed.

A charge in the order of 5-10% of the overall augmentation solution may be unreasonable if the augmentation is deep within the network. However for shallow augmentation works a 5-10% fee is reasonable. Western Power should provide detailed estimates and refunds for work that does not proceed.

## 4.2.8 Withdrawal of Applications

*Submissions are invited from interested parties as to whether the proposed circumstances under which Western Power can withdraw applications is reasonable and transparent; and whether there are any other circumstances where an application should be withdrawn, or deemed to be withdrawn.*

The ability of Western Power to “withdraw” an application is too broad and could lead to unintended severe consequences. Pacific Hydro suggests a mechanism to broker situations where the negotiation of an applicant fails to meet the 30 day response time.

Pacific Hydro is concerned that an application may be legitimately held up (by planning/environmental conditions imposed by governments) and would effectively have to start the connection process again if the applicant was not ready when Western Power announced its offer. The implications of this risk to connections may hinder development expenditure and ultimately drive up costs.

## 4.2.9 Changes to Priority Dates

*Submissions are invited from interested parties as to whether the proposed changes to priority dates are appropriate.*

It appears that Priority Dates is a mechanism for determining those projects that oversubscribe to an Access Offer. As previously mentioned, the ability of applicants to accept an Access Offer is dependent on a range of issues and some flexibility should be included in addressing these requirements.

## 4.2.10 Timeliness

*Submissions are invited from interested parties as to whether the clarifications are likely to lead to actual improvements in the timeliness of the applications and queuing process.*

There is a lack of timelines applicable to Western Power to provide any views as to the benefits under the proposed arrangements.

## 4.2.11 Clarification of Attachment Point

*Submissions are invited from interested parties as to whether the proposed clarification of the interpretation of “attachment point” is appropriate.*

Not commented on.